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DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/849,291		FRIEDLANDER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Jonathan G. Sterrett		3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Summary*

1. In view of the appeal brief filed on April 3, 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Currently **Claims 1-33** are pending.

### *Response to Arguments*

3. Applicant's arguments, regarding Guinta not teaching the prediction of a response to a technical change, filed April 3, 2006, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Guinta US 6,161,101 in view of Curtis. See the 35 USC 103 rejection below.

4. The applicant's remaining arguments have been fully considered but are not persuasive.

5. The applicant argues that Guinta does not teach that its assessor in any way quantifies the originally given response by assigning a value to the previously given response (page 7 para 1).

The examiner respectfully disagrees.

Guinta teaches in column 8 line 15-20, that the system obtains a response from the assessor that is reflective of how well on time performance records are maintained. The input from the user quantifies their response in that it reflects a quantification of how well the system maintains the records. In column 9 line 52-53, Guinta teaches that numerical inputs may be used to quantify specific events or circumstances (i.e. the baseline response is quantified by assigning a value to it). For example, in column 5 line 40-45, Guinta provides a sample question of "How well does your organization address this issue?". As a response the user can slide a bar to provide an input response where a value is assigned to the bar's position. Also Guinta teaches that various numerical scores may be used to "quantify a baseline response" by assigning a value to the answers to a question. (The examiner would further respectfully point out to the applicant that it is extremely old and well known in the art to perform this limitation, for example, the Likert score came into being in the 1950's and has become a defacto survey standard for assigning a value to a survey response. The Likert scale is

the familiar 5 point scale in survey questions composed of “Strongly disagree” to “Strongly Agree”).

6. The applicant argues that Guinta does not teach that the modification to the score relates to a response to a change (page 8 para 2).

The examiner respectfully disagrees.

The current extensiveness of process or systems as they are deployed is in fact a change that has been made to the organization. Guinta is modifying the raw score using a second number he refers to as a filter (see column 7 line 35). The reason Guinta is evaluating the organization regarding how effective the technical change has been in the organization is because of the need for corrective action where the change has not been effective (i.e. thus relates to a response to a change). Guinta's second numerical input that can be multiplied against the first (see column 7 line 48-49) to modify the first input based on how, for example, an organization or process is deployed to address an issue (i.e. the modifier relates to a response to a change, in this case the modifier relates to how extensive the process change has been implemented in an organization). The claim limitation does not explicitly recite how the raw score is modified, rather that it only cites that the modifier relates to change.

7. The applicant traverses the official notice regarding survey answers that may include “sometimes” as an answer (page 10 para 2).

However, the examiner would point out that this teaching is old and well known in the art, as taught by Ahmed (US 2002/0107824). In para 71, Ahmed teaches that "sometimes" is an alternative to a "yes" or a "no" in a survey answer.

8. The applicant argues that there is no motivation to combine Bobic and Guinta and that they are not analogous art.

The examiner respectfully disagrees.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bobic's teachings address measuring an individual's response to change in order to ensure that team membership is composed of members who are adaptive to change so that they appropriately influence the team organization. Guinta teaches assessing how effective a change has been implemented in an organization. Curtis teaches using a maturity model assessment to predict how an organization will respond to a technical change (as discussed below in the new grounds for rejection) both within a single maturity level and in moving between levels. One of ordinary skill in the art would be motivated to combine Guinta, Curtis and Bobic to anticipate the claimed invention because it would

appropriately identify individuals in an organization so that the organization was appropriately receptive to change (Bobic teaches innovators and adapters).

In response to applicant's argument that Bobic and Guinta are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Bobic, Guinta and Curtis are all addressing problems associated with organizational performance and attempting to improve that performance. Bobic, Guinta and Curtis are all clearly analogous art.

9. The applicant argues that there is combining Bobic and Guinta would defeat the intended function of Guinta.

The examiner respectfully disagrees

In response to applicant's argument that Bobic destroys the teaching of Guinta, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

10. The examiner notes that the official notice taken in Claim 7 was not traversed and therefore the managerial elements listed in rejecting claim 7 are admitted prior art.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 1, 3-5, 11, 12, 15, 17, 19, 21, 23, 25, 26 and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Guinta US 6,161,101** in view of **Curtis**, Bill; Hefley, William E.; Miller, Sally; "People Capability Maturity Model<sup>SM</sup>", Sept 1995, Software Engineering Institute, CMU/SEI-95-MM-02, sections O, L1-L4, (hereinafter **Curtis**).

Regarding **Claim 1**, Guinta teaches:

**Prior to implementing the technical change in the organization;**

Column 3 line 51-55, corrective action (i.e. implementing a technical change in the organization) is prior to implementing a change because Guinta's system is providing an evaluation to determine where corrective actions need to be applied.

**querying a hierarchy in the organization to obtain a baseline response;**



Column 3 line 61-65, assessor determines who in the organization should be queried in order to provide an organizational assessment. This would include identifying a hierarchy (i.e. chain of command) in the organization whose input would be entered into the system. E.g. column 4 line 34-36 – individuals in the hierarchy identified to provide assessment input.

Column 5 line 11-13, questions are posed to obtain an input into the system (i.e.. baseline response).

**quantifying the baseline response into a raw score by assigning a value to each baseline response;**

column 7 line 45-47, the input (i.e. baseline response) can be filtered using a variety of mathematical operations to be quantified (i.e. quantified into a raw score).

Column 8 line 10-15, values can be assigned to a baseline response, e.g. 1-10 scale that is indicative of the assessed answer.

**modifying the raw score using at least one modifier that relates to a response to change to yield a skill score; and**

column 9 line 44-47, scores can be modified based on a wide variety of factors.

Column 6 line 54-56, the second input (i.e. modifier) reflects how extensively the organization is deployed to address the issue (i.e. relates to a response to a change). See also column 6 line 56-63 for a discussion of how widely deployed a system is to address an issue, i.e. in relation to response to a change. –see column 7 line 35 for an example of how a modifier is used to modify a raw score.

**comparing the skill score to a predetermined required score to determine strengths and weaknesses in the organization.**

Column 11 line 45-46, the resulting scores (i.e. skill scores) are compared to selected thresholds (i.e. predetermined required score) to determine specific problem areas. If the resulting scores are lower than the threshold scores, then the system predicts there is a deficiency in the response in that particular area.

Guinta teaches the above to use a comparison to determine strength and weaknesses in an organization so corrective responses can address the weaknesses. Some of the weaknesses identified address technical aspects of the organization.

Guinta does not teach using a comparison to determine a predicted response to a technical change.

However, Curtis teaches using a comparison to determine a predicted response to a technical change.

Curtis teachings address the adaptation of the capability maturity model (CMM) to predict how organizations improve their abilities to work together as an organization in the development of software (see page O45 para 4, "workforce capability is an important predictor of business performance"). Software development is technical in nature where the interaction between individuals and teams is technical in nature (see

page O6 para 2). The CMM model predicts how an organization will perform when developing new software (i.e. in response to a technical change) and also how an organization will perform in response to attaining higher levels of maturity in their technical processes for developing software (see page O7 para 1).

Both Curtis and Guinta address how to improve an organization's processes.

Guinta addresses assessing and analyzing an organization's performance, including technical performance. Guinta does not address how an organization responds to technical change. Curtis teaches assessing an organization to determine both how the organization functions at different levels of maturity (i.e. 5 maturity levels) and how the organization will perform in response to being moved from one level to another (i.e. a technical change). Curtis teaches that the roots of the CMM model go back to the early 1980's and are a further development of a continuous improvement philosophy that originated with Philip Crosby (see page O6 para 4). Curtis teaches that his approach improves the way in which organizations function (in this case, in how effective they are in software development).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Guinta, regarding providing assessments and scoring of an organization's capabilities to include the step of using a comparison to predict how the organization will respond to a technical change, because it would

provide a proven continuous improvement framework to improve process improvement in a large organization.

Regarding **Claim 3**, Guinta teaches:

**querying a hierarchy in the organization;**

Column 3 line 61-65, assessor determines who in the organization should be queried in order to provide an organizational assessment. This would include identifying a hierarchy (i.e. chain of command) in the organization whose input would be entered into the system. E.g. column 4 line 34-36 – individuals in the hierarchy identified to provide assessment input.

Column 5 line 11-13, questions are posed to obtain an input into the system (i.e.. baseline response).

**and receiving a set of hierarchy responses to the querying to yield the baseline response.**

Column 4 line 39-41, any number of different individuals from different departments, including hierarchies in that department, may be select to enter inputs into the system. The total group of responses from these individuals would comprise a set of responses.

Column 7 line 52-54, e.g. a set of 100 different issues were assessed (i.e. responses received into system) from 10 assessors.

Column 5 line 11-13, questions are posed to obtain an input into the system (i.e.. baseline response). Any number of individuals in a hierarchy can provide input into the baseline response.

Regarding **Claim 4**, Guinta teaches:  
**the step of providing queries organized into query topics for querying the hierarchy.**

Column 13 Table 1, this table illustrates an example of how the system disclosed by Guinta has queries organized into topics for querying the hierarchy. For example, 4.1 is the topic of 'Management Responsibility' and 4.2 is a set of queries addressing the 'Quality System'.

Regarding **Claim 5**, Guinta teaches:  
**wherein the query topics comprise:**  
**leadership,**

Column 13 table 4.1 "Management Responsibility" deals with leadership responsibilities within the management function in queries 1-7.

**planning,**  
column 13 table 4.1 "Management Responsibility" deals with planning in queries 8.1-8.4.

**administration,**

column 18 table 4.16 'Control of Quality Records' deals with the overall administration of quality recordkeeping.

**operations,**

Column 20 table II.3 –“Manufacturing Capabilities” is an operations category.

**quality assurance,**

Column 19 table 4.17 –“Internal Quality Audits” deal with quality assurance.

**communications,**

Column 19 table 4.19 –‘Servicing’ ensures that data is communicated to supplier, manufacturing, engineering and design activities

**project management, and**

column 14 table 4.4 “Design Control” deals with project management within the design context, e.g. query 1 “Design plans for each project have been established and responsibility assigned”.

**training.**

Column 19 table 4.18 – “Training”

**Claims 11, 12, 15, 21, 23, 25 and 30** recite similar limitations as those recited in **Claims 1 and 3-5** above, and are therefore rejected under the same rationale.

Regarding **Claim 17**, Guinta teaches:

**wherein the program code configured to quantify converts the inputted responses into values to yield the raw score.**

Column 5 line 42-46, a user can input on a sliding scale on the computer their perception of how well the organization performs on an issue. The sliding scale is used by the computer program (i.e. program code) to convert the inputted response into a value for the inputted value – see Figure 7 and column 10 line 44-47

Regarding **Claim 19**, Guinta teaches:

**wherein the program code configured to compare determines the mathematical difference between the skill score and the predetermined required score to yield the predicted response.**

Column 11 line 40-46. The inputted response is converted into a numerical value. A predetermined threshold value is compared with the numerical value to determine if the threshold value is exceeded. The only way to determine if the threshold value is exceeded is to determine the mathematical difference between the numerical value (i.e. skill score) and the threshold value (i.e. predetermined required score). If the threshold values are not exceeded, resulting in a negative difference (i.e. predicted response), this means that the organization would have a weakness requiring corrective action – see column 11 line 47-50 and column 11 line 56-58. The above runs on a computer with code – see Figures 1, 7a & 7b & column 3 line 25-31.

**Claim 26** recites similar limitations as those recited in **Claim 19** above, and is therefore rejected under the same rationale.

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13. **Claims 2, 7-10, 14, 16, 22, 24, 27 and 31-33** are rejected under 35 U.S.C.

103(a) as being unpatentable over **Guinta** in view of **Curtis**.

Curtis, Bill; Hefley, William E.; Miller, Sally; "People Capability Maturity Model<sup>SM</sup>",  
Sept 1995, Software Engineering Institute, CMU/SEI-95-MM-02, sections O, L1-L4.

Regarding **Claim 2**, Guinta all the limitations of Claim 1 above, and also teaches:  
**recommending a corrective action based on the predicted response**,  
Column 12 line 25-26, the system provides a report recommending corrective  
actions based on the previous assessment of the weaknesses of the organization.

Guinta does not teach:

**and implementing the technical change**

Curtis teaches:

**and implementing the technical change**

Page 041 paragraph 2 line 1-3, an action team is formed to implement the  
solution to remedy weakness(s) identified by the maturity model assessment.

Guinta and Curtis both address identifying deficiencies and opportunities for  
improvement within organizations, thus both Guinta and Curtis are analogous art.



Curtis teaches that applying CMM principles to an improvement program that implements technical changes recommended by a diagnostic or assessment program results in an organization having reduced turnover and a greater readiness to perform in fast-paced environments (page O-40 paragraph 1 line 1-2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Guinta, regarding providing organizational assessments and recommended corrective actions, to include implementing the recommended corrective actions, as taught by Curtis, because it would result in an organization having reduced turnover and a greater readiness to perform in fast-paced environments.

Regarding **Claim 7**, Guinta teaches that large entities such as corporations, professional associations and governmental units conduct assessments within their organizations, i.e. hierarchies (column 1 line 19-21).

Guinta does not teach:

**wherein the hierarchies comprise senior management, mid-level management, administrators, analysts, operations, project management, and end users.**

The examiner takes Official Notice that it is old and well known in the art of management for large organizations such as corporations, associations and governmental units to contain hierarchies comprised of:

**Senior management** -most firms contain a hierarchy at the top comprising a chairman or CEO then on down to VP or Senior VP and on down to director level positions. Most corporate firms distinguish the senior management hierarchy by determining incentive compensation of company stock, i.e., if you receive or are eligible to receive IC, then an individual is considered senior management

**Mid-level management** – usually characterized by the director and manager and first line supervisory positions. These positions are differentiated from senior management positions in that they do not receive stock or IC options.

**Administrators** – characterized by those who are either in charge of administering and/or supervising support positions such as office staffing, secretarial or office assistant pools.

**Analysts** – characterized by a business where analyzing and responding to information is primary to the business. Good examples of organizations containing hierarchies of analysts include financial firms and government intelligence groups dealing with national security issues.

**Operations** – characterized by those organizations involved in manufacturing or supply chain management where large numbers of individuals are organized into hierarchies due to specialization of labor.

**Project management** – characterized by organizations where conducting projects is a primary goal. Best examples here exist in construction, firms focusing on product development or defense-related government procurement (e.g. weapons systems).

**End users** –characterized by organizations where products are distributed down a hierarchy of distribution channels. A good example of this is a supply chain where a small component supplied by an organization is assembled into a progressively larger product and where each group forms a hierarchy. For example, Tier 1, 2 and 3 automotive suppliers form a hierarchy of end users.

These various hierarchies represent a broad spectrum of functional areas that are old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Guinta regarding providing organizational assessments, to include the hierarchies of senior management, midlevel management, administrators, analysts, operations, project management and end users, because it would ensure a complete and accurate organizational assessment.

Regarding **Claim 8**, Guinta teaches all the limitations of Claim 1 above, but does not teach:

**wherein the querying step comprises the step of querying each of the hierarchies in the organization, and wherein a separate baseline response is obtained for each hierarchy and for the organization.**

Curtis teaches:

**wherein the querying step comprises the step of querying each of the hierarchies in the organization, and wherein a separate baseline response is obtained for each hierarchy and for the organization**

Page O-34 paragraph 2 line 4-6, a capability maturity assessment is a query of the hierarchies in an organization. It focuses on how hierarchies within an organization are performing with respect to each of the People-CMM practice areas. In other words, a baseline for each organization hierarchy is established.

Page O-34 paragraph 4 line 3-4, the maturity level, or baseline, for an overall organization, is the lowest level of maturity that has been achieved by any of the hierarchies in the organization.

Guinta and Curtis both address identifying deficiencies and opportunities for improvement within organizations, thus both Guinta and Curtis are analogous art.

Curtis teaches that applying CMM principles to an improvement program that implements technical changes recommended by a diagnostic or assessment program results in an organization having reduced turnover and a greater readiness to perform in fast-paced environments (page O-40 paragraph 1 line 1-2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Guinta, regarding providing organizational assessments and recommended corrective actions, to include evaluating baseline assessments for hierarchies within the organization and for the overall organization, as taught by Curtis, because it would result in an organization having reduced turnover and a greater readiness to perform in fast-paced environments.

Regarding **Claim 9**, Guinta and Curtis teach all the limitations of Claim 8 above.

Guinta also teaches:

**wherein each separate baseline response is quantified, modified and compared to a predetermined required score.**

Column 7 line 45-47, the input (i.e. baseline response) can be filtered using a variety of mathematical operations to be quantified (i.e. quantified into a raw score).

Column 9 line 44-47, scores can be modified based on a wide variety of factors

Column 11 line 45-46, the resulting scores (i.e. skill scores) are compared to selected thresholds (i.e. predetermined required score) to determine specific problem areas. If the resulting scores are lower than the threshold scores, then the system predicts there is a deficiency in the response in that particular area.

**Claims 10, 14, 16, 22, 24, 27 and 31-33** recite similar limitations as those recited in **Claims 2 and 7-9** above, and are therefore rejected under the same rationale.

14. **Claims 6, 13, 20 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Guinta** in view of **Curtis**.

Regarding **Claim 6**, Guinta teaches:

**wherein each query comprises a set of questions,**

Column 5 line 1-2, a series of questions are posed as part of a single query.

**with each question in the set of questions in a yes/no format.**

Column 5 line 62, yes/no inputs can be input into query.

Guinta does not teach inputting a 'sometimes' answer into the query.

Official Notice is taken that it is old and well known in the art for queries to have an answer as "sometimes". This allows for the possibility that the person answering the question wishes to indicate an answer that conveys an incident occasionally occurring.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Guinta, regarding providing a yes/no answer to a query, to include the step of providing the possibility of a selection being 'sometimes', because it would allow a person to answer a question to indicate something occurring occasionally.

**Claims 13, 20 and 29** recite similar limitations as those recited in **Claim 6** above, and are therefore rejected under the same rationale.

15. **Claims 18 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Guinta** in view of **Curtis** and further in view of **Bobic**.

**Bobic**, Michael; Davis, Eric; Cunningham, Robert; "The Kirton adaption-innovation inventory", Spring 1999, Review of Public Personnel Administration, v19n2, pp.18-31, Dialog 01991101 47253077.

Regarding **Claim 18**, Guinta teaches:

**wherein the program code configured to modify performs a mathematical operation on the raw score with a modifier to yield the skill score,**

Column 9 line 44-46, the numerical input (i.e. raw score) can be modified using a wide variety of factors to correlate the response with an output desired. This would include using a mathematical operation to revise (i.e. modify) the numerical input so that the result is correlated with the input information.

The above runs on a computer with code – see Figures 1, 7a & 7b & column 3 line 25-31.

Guinta does not teach:

**and wherein the modifier comprises at least one of a stiffness modifier that relates to how a particular type of organization traditionally responds to change and an individual modifier that relates to how a particular individual traditionally responds to change.**

Bobic teaches:

**and wherein the modifier comprises at least one of a stiffness modifier that relates to how a particular type of organization traditionally responds to change and an individual modifier that relates to how a particular individual traditionally responds to change.**

Page 3 paragraph 5 line 1-6, the KAI provides scores that measure how an individual traditionally responds to change by helping to quantify them as either an innovator or adaptor – see also page 2 paragraph 5 line 4-6, managers are scored on the KAI scale.

Bobic, Curtis and Guinta both address assessing organizational effectiveness, thus Bobic, Curtis and Guinta are all analogous art.

Bobic teaches that measuring a particular individual's resistance to change in characterizing them as innovators or adaptors is essential to balancing team membership in an organization so that organizational effectiveness is high in responding to change. (page 3 paragraph 1 line 1-9).



It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Guinta and Curtis, regarding scoring an organization with an initial score and a modifier, to include where the modifier relates to how a particular individual traditionally responds to change, as taught by Bobic, because it would enable an organization to effectively respond to change.

**Claim 28** recites similar limitations as those recited in **Claim 18** above, and is therefore rejected under the same rationale.

### ***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS

JGS 6-20-2006

Beth Van Doren  
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